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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re Esperanza G. et al., Persons Coming
Under the Juvenile Court Law.

B217911
(Los Angeles County
Super. Ct. No. CK17467)

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JOSE G. et al.,

Defendants and Appellants.

APPEAL from a judgment of the Superior Court of Los Angeles County. Stanley Genser, Commissioner. Affirmed.

Marissa Coffey, under appointment by the Court of Appeal for Defendant and Appellant Jose G.

Roni Keller, under appointment by the Court of Appeal for Defendant and Appellant Rocio E.

James M. Owens, Assistant County Counsel, and Kim Nemoy, Senior Deputy County Counsel, for Plaintiff and Respondent.

Appellants Jose G. (“Father”) and Rocio E. (“Mother”) (collectively “Appellants”) appeal from the juvenile court’s order terminating their parental rights over minors Esperanza G. and Jasmin G. pursuant to Welfare and Institutions Code section 366.26.¹ Appellants contend that the juvenile court erred in failing to apply the beneficial parent-child relationship exception (§ 366.26, subd. (c)(1)(B)(i)) and the sibling relationship exception (§ 366.26, subd. (c)(1)(B)(v)) to the termination of parental rights. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND²

I. Section 300 Petition

Father and Mother are the parents of 11-year-old Jose G. Jr. (“Jose”), six-year-old Esperanza, and five-year-old Jasmin. Mother is also the parent of three older children – 17-year-old Priscilla E., 16-year-old Jose E., and 14-year-old Jesus E.³

In March of 2004, the Los Angeles County Department of Children and Family Services (“Department”) received a referral alleging Father and Mother were neglecting the children. Jose, who was not yet five years old, was morbidly obese at 160 pounds and was determined to be at high risk for diabetes, heart disease and sleep apnea. The Department opened a family maintenance case and began to provide family preservation services. Over the next several months, the Department and various medical professionals scheduled numerous appointments for diagnosis, testing and treatment

¹ Unless otherwise stated, all further statutory references are to the Welfare and Institutions Code.

² A portion of the factual and procedural background is taken from our prior opinion in *Jose G. and Rocio E. v. Superior Court* (Oct. 8, 2008, B208365 [nonpub. opn.]).

³ As of 1996, Mother had failed to reunify with Jose E. and Jesus E. following a detention by the Department and the two children were adopted. Priscilla also had been detained from Mother’s custody, but was returned to her in 1998 and juvenile court jurisdiction was terminated.

of Jose's condition, but Mother and Father consistently failed to take Jose to the appointments, offering excuses of various sorts for their failure to cooperate.

In February of 2005, at age six, Jose weighed 200 pounds, regularly threw tantrums and used his size to intimidate his younger siblings. In order to quiet him down, Father and Mother gave him food. A physician stated Jose's obesity was not the result of a genetic or endocrine disorder and was likely caused by behavioral and environmental factors. The physician indicated the family home lacked the structured environment necessary for Jose to lose weight and improve his behavior. Jose reported that Mother pinched him on the arm and pulled his hair. Priscilla described an incident of domestic violence between Mother and Father. Priscilla was regularly absent from school and engaged in misbehavior.

On June 6, 2005 the Department filed a petition under section 300 to declare the four children court dependents. The court detained Jose and Priscilla and released Esperanza and Jasmin to Father and Mother.

In reports for the jurisdiction and disposition hearing submitted July 12, 2005, the Department indicated Jose was adjusting well to his group home, was losing weight and his behavior had improved dramatically, although he was sometimes violent with other children and staff, especially after visiting with Father and Mother. Father and Mother continued to give fried and sugary foods to Jose during visits in disregard of nutritional directives from the social worker. During an unannounced visit, the social worker found the family home to be dirty, full of clutter and without any beds. On July 12, 2005, the court ordered Priscilla released to Mother.

In a further report submitted August 4, 2005, the Department stated Jose had lost 17 pounds since his placement in a group home two months earlier. Although Jose's behavior continued to improve, he became unruly and sometimes violent when Father and Mother were present. On August 4, 2005, the juvenile court ordered Jose transferred to a more appropriate placement with the structure to adequately address his behavioral problems, and ordered Father and Mother to participate in intensive services to learn

appropriate parenting techniques for Jose and to attend conjoint counseling focusing on developing effective parenting techniques.

On December 13, 2005, Mother and Father submitted on the section 300 petition on the basis of the Department's reports, and the juvenile court sustained an amended petition alleging in part that Jose had special and unique medical problems including being morbidly obese, and discipline problems associated with his obesity; Father and Mother had been unable to adequately provide Jose with the necessary medical treatment and appropriate discipline to deal with his obesity and discipline issues; Mother had inappropriately disciplined Jose by pinching him and pulling his ears; the parents' conduct as to Jose placed him and the other three children at risk of physical and emotional harm; and the parents placed the children in a detrimental and endangering situation by leaving them at home without adult supervision.

The disposition hearing was conducted over various sessions and a disposition plan was entered on February 1, 2006. The three girls were ordered to be placed in the home of Father and Mother under supervision of the Department with family maintenance services. Jose was ordered suitably placed in foster care, and the Department was ordered to provide family reunification services to Father and Mother as to Jose. Father and Mother were ordered to participate in a parent education program, individual counseling to address case issues, conjoint counseling with Jose as recommended by Jose's therapist, and family nutrition education. The court also ordered that Jose undergo additional medical testing and analysis to rule out disease (Willi Prader Syndrome) as a cause of his obesity. The court granted Father and Mother unmonitored weekly visits with Jose.

II. Section 342 Petition and Review Hearings

On March 21, 2006, the Department filed a subsequent petition under section 342 as to Priscilla, Esperanza and Jasmin, alleging Father and Mother had a history of domestic violence, they were neglecting Jasmin's medical needs, and the family was residing in filthy conditions. In its detention report, the Department stated the family was living in two rooms in a hotel. The social worker had visited the family and found the

rooms messy and cluttered and furnished with mattresses lacking sheets and blankets. Large cockroaches infested the bedroom and bathroom and one wall contained several holes. Mother blamed Priscilla for the filthy conditions. Priscilla reported that Mother and Father argued and Father had hit Mother, most recently a week earlier. Priscilla's school counselor reported that Priscilla's teachers were "fed up" with her poor attendance and that Mother had failed to respond to telephone calls from the school or to sign and return daily progress reports required for Priscilla by the school. The Department further reported Priscilla had stated that Jasmin had recently had two or three seizures due to a high temperature, and that Mother had instructed Priscilla that if it happened again Priscilla should shake Jasmin to keep her awake and run to the hall to notify security. Priscilla also had stated that a doctor had prescribed medication for Jasmin's seizures, but Priscilla did not know how to administer the medication. Mother told the social worker Jasmin had only one seizure, she was taken to the hospital, no medicine was prescribed, and Jasmin would likely continue to have seizures when her temperature got too high. The court ordered the three girls detained with monitored visits for Mother with all three girls and monitored visits for Father with Esperanza and Jasmin.

On April 12, 2006, the Department reported that Mother and Father had been provided with family preservation services and had completed a parenting program, but they continued to demonstrate poor judgment and lack of commitment in caring for the children. Mother and Father had failed to follow through with Jose's medical treatment; Priscilla's school absenteeism and poor behavior had not improved; and Father and Mother had not enrolled in family counseling, individual counseling or nutrition education.

On May 5, 2006, Father and Mother submitted on an amended section 342 petition as to Priscilla, Esperanza and Jasmin on the basis of the Department's reports. As sustained by the court, the amended petition alleged Mother had received services from the Department as to several children for the previous 11 years and Father had received services for seven years; in March of 2006, Jasmin had suffered a seizure due to a high fever; Priscilla, Esperanza and Jasmin were found to be living in a filthy home

infested with cockroaches and were exposed to conflict between Father and Mother and to inappropriate language by Father directed to Mother and Priscilla. The court granted Mother monitored visitation with Priscilla, Esperanza and Jasmin and granted Father unmonitored visits with Esperanza and Jasmin. The court appointed Armando de Armas, Ph.D. to conduct a psychological evaluation of the family (Evid. Code, § 730) and continued the matter for the disposition hearing on the section 342 petition and the six-month review hearing on the section 300 petition as to Jose (§ 366.21, subd. (e)).

On June 22, 2006, Dr. de Armas submitted his Evidence Code section 730 report, which was based on clinical interviews, observations and administration of several psychological tests. Dr. de Armas indicated all four children had special needs requiring considerable attention and special intervention, and Father and Mother were overwhelmed by the needs of the children. Specifically, Dr. de Armas stated Jose had cognitive limitations and significant behavior problems including impulsivity and anger outbursts. Priscilla was behind grade level in all major areas and suffered from depression, aggression, social withdrawal and conduct problems. Esperanza was at risk for developing depression and social withdrawal, and both she and Jasmin suffered from developmental delays. Father had a very limited understanding of the needs of his children and was disgruntled with the dependency system and suspicious of the Department's motives, which made it doubtful he could comply with the requirements of the court and the Department for any extended period. Mother was defensive in personality testing, minimized her responsibility for the children's problems, and was too personally disorganized to be able to comply with the treatment recommendations for the children and to monitor their progress.

On June 30, 2006 the juvenile court conducted the disposition hearing on the section 342 petition and the six-month review hearing as to Jose. The court ordered Priscilla, Esperanza and Jasmin suitably placed, ordered the Department to continue to provide reunification services, ordered Father and Mother to participate in interactive parent education and individual counseling, and granted Mother and Father unmonitored visitation with all four children. The court found that the Department had provided

reasonable reunification services to Father and Mother as to all four children and continued the case for the 12-month review hearing as to Jose (§ 366.21, subd. (f)) and the six-month review hearing as to Priscilla, Esperanza and Jasmin (§ 366.21, subd. (e)).

In its November 30, 2006 report for the six-month review hearing as to Priscilla, Esperanza and Jasmin and for the 12-month review hearing as to Jose, the Department indicated Jose was exhibiting difficulty following the rules of his group home and had been diagnosed with Oppositional Defiant Disorder. Priscilla, Esperanza and Jasmin were placed together in a foster home. Mother and Father were generally in compliance with their case plans and attending various programs, but had not yet begun family counseling and were struggling in implementing their newly acquired parenting techniques. The Department recommended the matter be continued for an additional six months with discretion to send the children home prior to the continued date.

On January 9, 2007, the court conducted the contested six-month and 12-month hearings. The court found the Department had provided reasonable reunification services and Mother and Father were in compliance with their case plans. The court continued the case for the 18-month permanency review hearing as to all four children (§ 366.22).

In its June 11, 2007 report for the 18-month review hearing, the Department indicated Jose had made marked progress in his behavior, he was working hard and independently at school, and his weight had dropped to 150 pounds. Esperanza and Jasmin were doing well in their foster home. Priscilla had been moved to a group home and continued to exhibit academic and attendance problems at school. Mother and Father remained in compliance with the juvenile court's orders, were visiting regularly with the children and were eager to reunify with them, but they continued to struggle with implementing boundary-setting for the children. The Department recommended that Priscilla remain in foster care and the other children be returned to Father and Mother with family maintenance services.

At the 18-month review hearing on June 11, 2007, the juvenile court released Jose, Esperanza and Jasmin to Father and Mother under the Department's supervision, on condition the parents maintain housing and child care approved by the Department,

meet the children's emotional and educational needs, cooperate with the Department in receiving services, and comply with the treatment plan. The court also ordered Mother to participate in individual counseling and Father and Mother to participate in conjoint counseling. The court continued the 18-month hearing as to Priscilla to August 21, 2007.

In its report for the 18-month review hearing as to Priscilla, the Department recommended that Priscilla be returned to Mother's custody, citing improvement in Priscilla's behavior and in her relationship with Mother. The Department's report also included information regarding the current situation in the family home. Father and Mother had shown little compliance with the juvenile court's orders to participate in individual counseling; they had not taken Esperanza and Jasmin to any sessions of an Early Childhood Program, to which they had been referred by the social worker to satisfy the conjoint counseling requirement; they were not properly supervising and parenting the children, who were unruly and lacked boundaries; Jose's weight had ballooned to 213 pounds and he was reverting to aggressive behavior; and the home was unkempt and again infested with cockroaches. Because Father and Mother had already received over 12 months of family preservation services and were no longer eligible for those services, the Department had referred the family to Wraparound/Systems of Care services.

III. Section 387 Petition as to Jose and Further Review Hearings

On August 21, 2007, the juvenile court ordered the Department to file a section 387 supplemental petition seeking removal of Jose from his parents' custody and continued the 18-month review hearing as to Priscilla for a contest. On August 24, 2007, the Department filed the supplemental petition, alleging Father and Mother had failed to ensure proper care for Jose resulting in weight gain of 34 pounds, they had allowed an unrelated man who abused alcohol to have unlimited access to Jose, and the family home had previously been found to be in a filthy and unsanitary condition. In its detention report, the Department stated the social worker had found the family home cluttered and infested with roaches; Jose had a large untreated spider bite that had become infected; a man who was clearly intoxicated was present in the apartment of a woman who was currently babysitting Jose and Jasmin; and as of August 21, 2007, Jose weighed 218

pounds. On August 24, 2007 the juvenile court ordered Jose suitably placed, ordered the Department to provide family reunification services, and granted Father and Mother unmonitored visitation with Jose on the condition they not take any food to the visits.

On September 26, 2007, the Department submitted its report for the jurisdiction and disposition hearing on the section 387 petition as to Jose. The Department advised that Jose had lost 20 pounds since he was detained one month earlier, and noted his recurring pattern of losing weight while in out-of-home care and gaining weight under his parents' custody. The Department further observed that despite receiving more than two years of reunification services as to Jose and completing numerous programs, Father and Mother remained incapable of properly parenting Jose and there were few options for additional services to aid in their ability to ensure Jose's safety and well-being. On October 5, 2007, the juvenile court set the adjudication hearing on the section 387 petition as to Jose for a contest. The court also ordered Priscilla placed with Mother on certain terms and conditions.

On November 6, 2007, the Department submitted a report for a section 364 home-of-parent review hearing as to Esperanza and Jasmin and an interim review report as to Jose. The Department reported Esperanza and Jasmin were exhibiting behavior problems. Mother was attempting to comply with the court's orders but was overwhelmed and struggling to meet the family's daily needs. Father was working long hours, was generally unavailable to parent the children, and had failed to enroll in counseling. Both parents continued to lack parenting skills to manage the children's behavior. A clinician at Jose's group home had reported that when Mother, Father, Esperanza and Jasmin arrived at Jose's group home for a visit, the entire family appeared to be unbathed, Esperanza and Jasmin were barefoot, and Esperanza was left unattended by her parents. During the visit, Esperanza was actively jumping on chairs, the social worker repeatedly prompted Mother to get Esperanza off the chairs to prevent Esperanza from hurting herself, and Mother seemed to be unconcerned when Esperanza jumped off a chair and hit her forehead on a glass window. Jose's therapist expressed concern that the parents' visits with Jose were unmonitored, observing that they generally visited

during Jose's lunch time and provided him with excessive amounts of food. The Department recommended that the court terminate reunification services for Mother and Father as to Jose, stressing that Mother and Father had failed to benefit from the many services offered to them and had exceeded the 18-month statutory limit for reunification. The Department further recommended that Esperanza and Jasmin remain in the family home.

On December 10, 2007, the court continued the matter to February 28, 2008, for a contested section 364 hearing as to Esperanza and Jasmin and a contested adjudication hearing on the section 387 petition as to Jose. On February 20, 2008, the Department submitted a report indicating the case manager at Jose's group home had reported that the family's visits with Jose had become problematic because "the kids beat each other up, [run off] by themselves, . . . throw their shoes on the roof, and the parents pay no attention to the kids whatsoever." The Department also reported that Priscilla's school performance was "dismal" since she was placed in the family home. Mother had been unaware that Priscilla was truant for one week and had been expelled from school.

IV. Section 387 Petition as to Priscilla, Esperanza & Jasmin

On February 22, 2008, the Department filed a section 387 supplemental petition as to Priscilla, Esperanza and Jasmin based on the parents' lack of compliance with programs since the children were returned home and Mother's failure to ensure Priscilla's school enrollment and regular attendance. In its detention report, the Department cited the parents' failure to comply with the juvenile court's orders for counseling and conjoint therapy since the children were returned home; the continuing behavior problems exhibited by Esperanza and Jasmin and the parents' failure to participate in programs addressing the behavioral issues; the parents' continuing pattern of inappropriate parenting as reflected by the children's poor behavior and the parents' inability to control the behavior during visits with Jose; and the parents' lengthy history of noncompliance with the requirements of their case plans in previous cases and in the current case. On February 22, 2008, the juvenile court ordered all four children detained in shelter care with monitored visitation for Mother and Father.

In a report submitted March 14, 2008 for the jurisdiction and disposition hearing on the section 387 petition as to Priscilla, Esperanza and Jasmin, the Department urged it was clear Mother and Father continued to show poor judgment and inability to adequately parent their children, demonstrating that they had failed to benefit from the extensive services provided to them over a period of many years. The Department argued that it was clear the previous disposition had not been effective to protect the children, and recommended the three children be committed to the custody of the Department for suitable placement without reunification services for Mother and Father.

The contested hearings on the section 387 petitions as to all four children were conducted over three court sessions in May and June 2008. Candis Nelson (“Nelson”), the social worker assigned to the case from December 2004 until December 2007, testified Mother was ordered to participate in individual counseling and conjoint counseling at the discretion of the children’s therapists when Priscilla, Esperanza and Jasmin were returned to parental custody on June 11, 2007. As of that date, Mother was participating in conjoint counseling with Priscilla and in the Early Childhood Program with Esperanza and Jasmin. Mother did not participate regularly in the Early Childhood Program after June 12, 2007, and thereafter there were escalating problems with the behavior of Esperanza and Jasmin, Mother’s supervision of the children, and the cleanliness of the home and of the children. Nelson further testified that the filing of the section 387 petition as to Priscilla, Esperanza and Jasmin was triggered by a combination of the escalating issues set forth in the Department’s various reports, principally involving the children’s behavior problems (cursing, ignoring the parents’ warnings and directives, and engaging in physical violence) and the parents’ inability or unwillingness to properly supervise the children. Nelson further testified Mother had attended only two conjoint counseling sessions with Priscilla, and Father had attended only one session. Mother had given various reasons for missing the Early Childhood Program sessions.

The Early Childhood Program therapist, Michelle Estrada (“Estrada”), testified she had provided therapy for Esperanza and Jasmin since May of 2006 and Mother had

participated since June of 2006. Mother made progress in the therapy and there was growth in her attachment to the children. Mother was cooperative in therapy and the children were appropriately dressed when Mother brought them to therapy sessions. Mother missed eight therapy sessions between November 2007 and February 2008, and had previously missed approximately 20 sessions between June 2006 and November 2007. Father did not attend any conjoint therapy sessions. Estrada had also referred the family to the Full Service Partnership, a “last resort” program that provides intensive in-home services.

Father testified he had participated in individual counseling but could not remember the dates. Father also testified he had given social worker Nelson a letter from his therapist indicating he completed his counseling, and thereafter Nelson did not tell him he needed additional counseling. Mother testified Nelson never told her she needed to re-enroll in individual counseling when her daughters were returned to her in June of 2007 and did not give her any further referrals for counseling. Mother testified Priscilla’s school never informed her that Priscilla was not attending school; she first learned of Priscilla’s failure to attend school when she came to court; she was never given a plan to follow in order to help Jose maintain his weight when he was returned to her care; she felt that Jose’s weight gain of 34 pounds in two months while he was in her care was caused by anxiety; and Nelson told her she would refer Jose to therapy to teach him to eat more slowly but did not follow through.

At the conclusion of testimony and after hearing closing arguments, the juvenile court sustained an amended section 387 petition as to Jose alleging he had special and unique medical problems including morbid obesity and Mother and Father failed to ensure his proper care, resulting in a weight gain of 34 pounds since returning to their custody two months earlier and placing Jose at risk of physical and emotional harm. The court also sustained an amended section 387 petition as to Priscilla, Esperanza and Jasmin alleging in part that Mother and Father failed to attend court-ordered individual counseling, early childhood education and conjoint counseling with Priscilla, Esperanza and Jasmin, endangering the children’s physical and emotional health and safety. In

making its findings, the court discounted all of Mother's testimony as not credible, and observed that despite the extensive services given to them over many years, Mother and Father had not learned how to set limits for the children. The court proceeded to deny further reunification services to Father and Mother, observing that "[t]hey've received more services than any family I think I ever had in this court," but had "not benefitted whatsoever from all the years and years of treatment they've received. . . ." The court set a hearing pursuant to section 366.26 for all four children.

Mother and Father filed writ petitions seeking extraordinary relief from the juvenile court's order setting a section 366.26 hearing as to Jose, Esperanza and Jasmin. On October 8, 2008, this Court denied the writ petitions on the merits in an unpublished opinion (*Jose G. et al. v. Superior Court* (Oct. 8, 2008, B208365 [nonpub. opn.]).

V. Section 366.26 Selection and Implementation Hearing

In its September 24, 2008 reports for the section 366.26 hearing, the Department indicated that Priscilla, Esperanza and Jasmin had been placed together in foster care for a brief period of time. However, when Priscilla repeatedly failed to return to the foster home from school, the Department placed her in a group home. Priscilla indicated that she did not want to be adopted and preferred a planned permanent living arrangement. Jose remained placed in a separate group home, and although he showed some progress with his behavioral issues, he continued to struggle with oppositional behaviors and occasional tantrums. Esperanza and Jasmin were content in their current placement. They had been residing with their caretaker, Mrs. S., since March 2008, and Mrs. S. previously had been their day care provider when the girls were in parental custody. Mrs. S. was interested in adopting both Esperanza and Jasmin, and the Department was in the process of completing an adoptive home study. The Department reported that Mrs. S. had a loving relationship with the children, was consistently meeting their needs, and was committed to providing them with a permanent home. The Department recommended that parental rights over Esperanza and Jasmin be terminated and adoption be selected as their permanent plan.

With respect to visitation, the Department reported that Mrs. S. had been monitoring the weekly visits between Mother, Father and the four children. Mother and Father also had regular telephone contact with Esperanza and Jasmin. As described by Mrs. S., the children were always happy to see their family, but Mother and Father often failed to assume a parenting role during the visits and relied on Mrs. S. to perform that function. Mother and Father also asked the children on numerous occasions if they wanted to “come home,” and advised them to talk to the social worker because the social worker “won’t allow them to return home.” Following an argument with Mother during one visit, Mrs. S. informed the Department that she was no longer willing to act as the monitor. On September 24, 2008, the juvenile court identified adoption as the permanent plan goal for Esperanza and Jasmin, and ordered a planned permanent living arrangement for Priscilla and Jose.

In its October 27, 2008 status review report, the Department stated that Esperanza and Jasmin remained suitably placed with Mrs. S. The children were bonded with Mrs. S. and had adjusted well to their placement, and Mrs. S. continued to provide them with a nurturing and supportive home. Esperanza was displaying some behavioral issues at school, however, including throwing tantrums and refusing to follow rules. Jose remained in the group home where his needs were being adequately met, but he reportedly had difficulty accepting that reunification services for his parents had been terminated. Priscilla had run away from several group and foster homes since her detention and continued to show instability toward a permanent placement. Jose’s group home recently had begun monitoring the family’s weekly visits and had not reported any concerns to the Department.

In a November 14, 2008 interim review report, the Department indicated that there had been five visits between Jose, Esperanza and Jasmin at the group home in the past six months and Priscilla had attended two of the visits. The monitor for the visits reported that the siblings related well to one another and that their interactions were positive. Jose enjoyed spending time with his sisters and was attentive to their needs. The siblings also openly showed affection toward one another. On December 24, 2008, counsel for

Priscilla and Jose filed a section 388 petition on the children's behalf requesting that the juvenile court permit Priscilla and Jose to participate in the contested section 366.26 hearing as to Esperanza and Jasmin. The petition alleged that Priscilla and Jose had a strong emotional bond with their younger siblings and intended to assert the sibling relationship exception (§ 366.26, subd. (c)(1)(B)(v)) to the termination of parental rights.

In an interim review report dated January 20, 2009, the Department provided further information about the family's visits. Monitored visitation between Mother, Father and the children continued to take place on a weekly basis at Jose's group home. The group home provided several activities for the family, including a large grass area, a basketball court, and two jungle gym play structures. The monitor from the group home indicated that the siblings interacted positively during the visits and were always glad to see one another. Jose played well with his younger sisters and was protective of them. The monitor also noted that Esperanza and Jasmin often cried at the conclusion of the visits because they did not want to leave Mother. The social worker observed family visits on three occasions between December 2008 and January 2009. According to the social worker, Mother and Father acted appropriately in their interactions with the children, and the children seemed to be bonded with their siblings and parents. The children were content throughout the visits, but showed no signs of being overly excited at the start of visits or upset at the end of visits. Esperanza and Jasmin also appeared to be non-discriminatory in their affection, greeting the social worker in the same manner that they greeted their parents. After one visit, the social worker spoke with Esperanza about her placement wishes. Esperanza indicated that she liked living with her parents and siblings, and if she could live with anyone of her choice, she would live with her biological family. The social worker attempted to ascertain Jasmin's wishes, but Jasmin did not answer her questions.

In its response to the section 388 petition filed on behalf of Priscilla and Jose, the Department recommended that the petition be denied. The Department acknowledged that Priscilla and Jose had a positive sibling relationship with Esperanza and Jasmin, and were always appropriate and attentive to their younger siblings during

visits. However, since his initial detention in June 2005, Jose never shared a foster placement with his sisters. Priscilla shared a placement with Esperanza and Jasmin from March 2006 to May 2007, and from August 2008 to September 2008, but each time, Priscilla's placement was changed at her request following several incidents of running away. Priscilla told the social worker that, although Mrs. S. was a good caretaker, she did not want Esperanza and Jasmin to be adopted because Mrs. S. then could leave California and change her siblings' names. Priscilla also stated that she believed Esperanza and Jasmin would suffer discrimination if adopted because they were Hispanic whereas Mrs. S. was Black. Jose became upset when informed that Mrs. S. was the prospective adoptive parent for his younger siblings, asserting "I don't want that black lady to adopt my baby sisters." Mother similarly related that she disapproved of Mrs. S. as a prospective adoptive parent because she believed the children should be raised in a Hispanic home. The Department noted that Esperanza and Jasmin had developed a positive attachment to Mrs. S., were affectionate toward her, and were doing well in her home. In its report, the Department recognized that there was a sibling bond between the four children, but recommended adoption by Mrs. S. because permanency was in the best interests of Esperanza and Jasmin.

In a report dated February 18, 2009, the Department advised the court that Mother had raised concerns about Mrs. S.'s care of Esperanza and Jasmin after Esperanza purportedly told Mother that she had been pushed. Mother's allegations of physical abuse resulted in multiple investigations by the Department, foster family agency, and law enforcement, which required that all children in Mrs. S.'s home be disrobed for full body checks on five separate unannounced occasions. No safety issues were discovered, but during the investigations, Mrs. S. asked that Esperanza and Jasmin be removed from her home. Mrs. S. indicated that she could no longer pursue adoption of the children because the continual investigations and perceived court battle were compromising the safety of her biological child and were "too much" for her. In February 2009, Esperanza and Jasmin were placed in a new foster home. The Department investigated certain

maternal relatives for possible placement of the children, but their criminal backgrounds were prohibitive.

On February 18, 2009, the juvenile court ordered that any visitation between Mother, Father, Esperanza and Jasmin take place at the Department's offices. The court also ordered that all telephone contact between the parents and children be terminated pending further hearing. On April 16, 2009, the court continued the matter for a contested section 366.26 hearing as to Esperanza and Jasmin. The court ordered that the girls be placed in a planned permanent living arrangement with the goal of adoption.

In its July 29, 2009 report for the contested section 366.26 hearing, the Department reported that Esperanza and Jasmin currently were placed in the foster home of their new pre-adoptive parent, Mrs. B. Both girls were doing well in their placement, but still showed some developmental delays in speech and language. Jasmin also had mild facial abnormalities and there was concern she suffered from fetal alcohol syndrome or autism. A psychological evaluation of Jasmin identified several emotional, social and behavioral issues, including delayed socio-emotional development. A psychological evaluation of Esperanza had been performed, but the results were still pending. Esperanza and Jasmin had been residing with Mrs. B. since February 2009, and Mrs. B. had expressed an interest in adopting both girls from the beginning of their placement. The children appeared to be bonded with their current caretaker, and Mrs. B. had demonstrated an ability to meet their needs despite their emotional and developmental issues. Mrs. B. also stated a willingness to maintain visits between Esperanza and Jasmin and their siblings. An adoptive home study for Mrs. B. had been completed and approved.

With respect to visitation, the Department reported that the weekly family visits at its offices were often chaotic. Esperanza and Jasmin appeared to be bonded with both their parents and siblings, and easily showed them affection during the visits. However, Mother and Father rarely assumed a parental role during the visits and failed to set limits for the children. The social worker observed that Mother recently had attempted to assume a more active role in her interactions with the children, but still struggled in

setting limits and addressing inappropriate behavior. At times, Father appeared angry and short in his interactions. On one occasion, Father became agitated with the children and appeared as though he were going to strike Esperanza with his hand, but was able to stop himself. Mrs. B. also expressed some concern about the family visits during Jasmin's psychological evaluation. After one visit, Jasmin reportedly told Mrs. B. that "my dad said for me to tell the social worker you hit me," and Esperanza told Jasmin that "my dad loves me more than you." The Department continued to recommend that parental rights over Esperanza and Jasmin be terminated so that they could be freed for adoption by Mrs. B.

On July 29, 2009, the juvenile court held the contested section 366.26 hearing as to Esperanza and Jasmin. At the start of the hearing, counsel for Priscilla and Jose withdrew the section 388 petition filed on behalf of Priscilla, but asked that the petition be granted on behalf of Jose. The court allowed Jose's counsel to participate in the section 366.26 proceedings to object to the termination of parental rights over Esperanza and Jasmin.

Mrs. B. was called to testify at the hearing. Mrs. B. stated that Esperanza and Jasmin had been in her home since February 2009, and that she was committed to adopting both children. Mrs. B. was aware of the children's special needs and was willing to attend to any such needs, including participating in regional center and school services. Mrs. B. had not met Priscilla or Jose, but was agreeable to allowing sibling visits on birthdays and holidays. She also would consider monthly sibling visits upon consultation with the children's therapist.

Veronica Rivera ("Rivera"), a Department social worker, also testified. Rivera had been assigned to the case from February 2008 to May 2009, and monitored the family's visits for approximately three months. Between February and May 2009, Mother visited the children on a weekly basis, and Father visited once a month due to his work schedule. All four children were always present at Mother's visits. Rivera reported that Mother and Father failed to assume a parental role throughout the period of visitation. When the children had temper tantrums or argued with one another, Mother

did not take any action to correct their behavior. Father typically acted as an observer during his visits instead of interacting with the children. The sibling visits, on the other hand, were very positive. Jose was attentive to his younger siblings, asked them about their day, and played games with them. Esperanza and Jasmin enjoyed their time with Jose and were affectionate toward him.

Father testified that he visited the children every other Tuesday over the past six months. During the visits, Father talked to the children and played with them. When the children had tantrums, he would stand up and separate them. If given the opportunity, Father would want to have more contact with the children. He stated that he did not want Esperanza and Jasmin to be adopted because he never abused them, and he did not understand why they should be adopted by someone else. Father believed that his children should be with him.

Mother testified that she visited the children every Tuesday and had not missed any scheduled visits. She would have visited the children more often if allowed. At the start of each visit, Esperanza and Jasmin would hug and kiss Mother and say, "I love you, Momma." During the visits, Mother played with the children and read books to them. Esperanza and Jasmin also enjoyed brushing Mother's hair and playing with her makeup. At the end of the visits, the children often cried. Mother observed only one tantrum between the children during her visits. On that occasion, Esperanza and Jasmin fought over a book, but Mother was able to redirect their behavior. Mother also described a strong relationship between the siblings. According to Mother, Esperanza and Jasmin were joyful during their visits with Priscilla and Jose, and the four children played very well together. Mother stated that she did not believe Esperanza and Jasmin should be adopted because "there's not enough reasons for them to separate the bond that we have."

After hearing the argument of counsel, the juvenile court found by clear and convincing evidence that Esperanza and Jasmin were adoptable by their current caretaker, Mrs. B. The court identified the primary issue as whether there existed a statutory exception to the termination of parental rights based on the nature of the parental and sibling relationships. The court noted that Esperanza and Jasmin were very young

children with special needs which Mother and Father had never been able to meet. It also recognized that the girls' temper tantrums had been significantly reduced since their placement with Mrs. B. and they were thriving in her home. The court further found that Mrs. B. had the ability to meet the needs of both Esperanza and Jasmin and to provide them with the structure and stability that they never had with their parents.

On that basis, the court concluded that there was no evidence to demonstrate that the termination of parental rights would be detrimental to Esperanza or Jasmin. The court reasoned that "these children who have special needs will regress if we don't go to permanency. These children have the right to be placed somewhere where there's a probability or hope that they will eventually be able to lead normal lives. They have very special needs. If we don't go to permanency, I think they will be injured for the rest of their lives." The court accordingly ordered that parental rights over Esperanza and Jasmin be terminated and that the children be freed for adoption. On July 29, 2009, Mother and Father filed timely notices of appeal challenging the order terminating their parental rights.

DISCUSSION

At a hearing under section 366.26, the juvenile court must select and implement a permanent plan for a dependent child. Where there is no probability of reunification with a parent, adoption is the preferred permanent plan. (*In re Edward R.* (1993) 12 Cal.App.4th 116, 122.) For the juvenile court to implement adoption as the permanent plan, it must find, by clear and convincing evidence, that the minor is likely to be adopted if parental rights are terminated. (§ 366.26, subd. (c)(1).) Then, in the absence of evidence that a relative guardianship should be considered (§ 366.26, subd. (c)(1)(A)) or that termination of parental rights would be detrimental to the child under one of six statutorily-specified exceptions (§ 366.26, subd. (c)(1)(B)(i)-(vi)),⁴ the juvenile court

⁴ Effective January 1, 2008, the six statutory exceptions to the termination of parental rights formerly contained in section 366.26, subdivision (c)(1)(A) through (F),

“shall terminate parental rights.” (§ 366.26, subd. (c)(1).) In their appeal, Mother and Father argue that the section 366.26, subdivision (c)(1)(B)(i) exception based on the parent-child relationship and the section 366.26, subdivision (c)(1)(B)(v) exception based on the sibling relationship precluded the termination of their parental rights.

I. The Parent-Child Relationship

Section 366.26, subdivision (c)(1)(B)(i) provides that the juvenile court may decline to terminate parental rights if it “finds a compelling reason for determining that termination would be detrimental to the child” because “[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” A beneficial parent-child relationship within the meaning of section 366.26, subdivision (c)(1)(B)(i) is one that “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) To establish the exception, “the parents must do more than demonstrate ‘frequent and loving contact’ [citation], an emotional bond with the child, or that the parents and child find their visits pleasant. [Citation.] Rather, the parents must show that they occupy ‘a parental role’ in the child’s life. [Citation.]” (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108-1109.) Furthermore, “[b]ecause a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child’s needs, it is only in an extraordinary case that preservation of the parent’s rights will prevail over the Legislature’s preference for adoptive placement.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.)

Most appellate courts review a trial court’s determination on the applicability of the section 366.26, subdivision (c)(1)(B)(i) exception for substantial evidence (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 576 [considering former § 366.26, subd. (c)(1)(A)]). Analyzing the juvenile court’s ruling that the section 366.26, subdivision

were renumbered, without substantive change, and are now found in section 366.26, subdivision (c)(1)(B)(i) through (vi).

(c)(1)(B)(i) exception did not apply, we must affirm the order because it is supported by substantial evidence.

The Department concedes that Mother and Father maintained regular visitation and contact with Esperanza and Jasmin during the course of the dependency proceedings. In the six months preceding the termination of parental rights, Mother consistently participated in weekly in-person visits with the children, and Father attended the family visits at least once or twice a month. Mother and Father also had regular telephone contact with the children three times per week until that contact was terminated by the juvenile court. Thus, there was substantial evidence that the parents' contact with the children was sufficiently regular to establish the visitation prong of the section 366.26, subdivision (c)(1)(B)(i) exception. The issue on appeal is whether Mother or Father occupied a parental role in the children's lives sufficient to satisfy the beneficial relationship prong. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1420 [former section 366.26, subdivision (c)(1)(A) exception requires "a continuing parental relationship; not one . . . when a parent has frequent contact with but does not stand in a parental role to the child"].)

In their testimony at the July 29, 2009 section 366.26 hearing, both Mother and Father described a warm and loving relationship with the children during their weekly monitored visits, but they failed to demonstrate that such relationship rose to a parental level. As testified to by Mother and Father, Esperanza and Jasmin were always excited to see them at the start of the visits, enjoyed the time that they spent together, and cried when the visits ended. The children also openly showed affection to both Mother and Father during their visits, and they typically spent their time together playing and reading books. However, because a child normally will derive some incidental benefit from interaction with a natural parent, "[c]ourts have required more than just 'frequent and loving contact' to establish the requisite benefit for the [section 366.26, subdivision (c)(1)(B)(i)] exception." (*In re Brandon C.* (1999) 71 Cal.App.4th 1530, 1534; see also *In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575 ["Interaction between natural parent and child will always confer some incidental benefit to the child. . . . The exception

applies only where the court finds regular visits and contact have continued or developed a significant, positive, emotional attachment from child to parent.”].) While a beneficial parent-child relationship can exist even without day-to-day contact, the parent still must occupy a parental role in the child’s life. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.) To be simply a “friendly visitor” is not sufficient. (*Id.* at p. 52; see also *In re Angel B.* (2002) 97 Cal.App.4th 454, 468 [“for the exception to apply, the emotional attachment between the child and parent must be that of parent and child rather than one of being a friendly visitor”].) In this case, even though the parents’ testimony evinced a friendly and loving relationship with the children, it did not establish that the relationship reached the level at which the section 366.26, subdivision (c)(1)(B)(i) exception would apply.

The Department, on the other hand, offered ample evidence to demonstrate that the relationship between the parents and children, while positive and loving in nature, did not rise to a parental level. As described by the social workers who observed the visits, Mother and Father generally acted in an appropriate manner toward the children, and the children appeared to be bonded with their parents. However, Mother and Father rarely established a parental role during the visits, and they continued to experience difficulty in setting limits for the children. Father often acted as an observer during his visits and was not actively engaged with Esperanza or Jasmin. Mother attempted to assume a more active role in her interactions with the children, but she still struggled in setting boundaries and addressing inappropriate behavior. While Esperanza and Jasmin were always glad to see their parents and enjoyed their time together, the evidence reflected that the girls related to them as play friends, and that the parents failed to assert a parental role. Apart from some sadness expressed by the children at the end of the visits, there was no evidence that they suffered any detriment during periods without parental contact.

In support of their argument that the section 366.26, subdivision (c)(1)(B)(i) exception applied, Mother and Father rely on Esperanza’s statements to the social worker that she preferred to reside with her parents. It is true that when asked with whom she would want to live if she had a choice, then four-year-old Esperanza indicated that she would want to live with her biological family because she “like[d] it.” Esperanza also

expressed that she missed her parents and siblings. However, in addition to the evidence concerning Esperanza's wishes, the juvenile court heard evidence of the children's continual progress in the home of their prospective adoptive parent, Mrs. B. Esperanza and Jasmin had been living with Mrs. B. for six months, were bonded to her, and were happy and healthy in her home. Both children had emotional and developmental issues, but their behavior was improving in Mrs. B.'s care. Mrs. B. was committed to providing the children with a stable and permanent home, and she had shown an ability to meet their unique needs, which Mother and Father had never been able to do. Considering the totality of evidence before the juvenile court, Mother and Father's evidence of an emotional bond with the children failed to establish that the parental relationship "promote[d] the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents." (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

As further evidence that a beneficial parent-child relationship existed, Mother and Father assert that Esperanza and Jasmin spent a substantial portion of their lives being raised by their parents. However, the record reflects that these children were dependents of the juvenile court for the vast majority of their lives and that they spent most of that time outside parental custody. During the four-year period between the Department's filing of the original section 300 petition in June 2005 and the juvenile court's termination of parental rights in June 2009, Esperanza and Jasmin spent approximately one and one-half years in parental custody and approximately two and one-half years in foster care. Their time in parental custody was not continuous. Moreover, when they were under the care of Mother and Father for intermittent periods, the children were neglected medically and developmentally, and displayed behavioral problems that the parents repeatedly failed to address despite years of reunification services. Additionally, by the time they were placed with Mrs. B. in early 2009, Esperanza and Jasmin already had been deprived of one prospective adoptive home when Mother raised unsubstantiated allegations of abuse against their long-term caretaker, Mrs. S. Given the young age of the children, their numerous special needs, and the nature of their relationship with Mother

and Father, the benefits of a permanent adoptive home outweighed the benefits of maintaining the parental relationship. (See *In re Zachary G.* (1999) 77 Cal.App.4th 799, 811 [“When the benefits from a stable and permanent home provided by adoption outweigh the benefits from a continued parent/child relationship, the court should order adoption.”].)

Mother contends that the juvenile court should have selected legal guardianship over adoption as the permanent plan for the children. She claims that a plan of legal guardianship would have permitted Esperanza and Jasmin to have both a loving beneficial relationship with Mother and a permanent stable placement with their current caretaker. However, the permanent plan preferred by the Legislature is not legal guardianship, but adoption. (*In re Beatrice M.*, *supra*, 29 Cal.App.4th at 1416.) “Adoption is the Legislature’s first choice because it gives the child the best chance at [a full] emotional commitment from a responsible caretaker. [Citations.]” (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1348.) Indeed, “[t]he Legislature has decreed . . . that guardianship is not in the best interests of children who cannot be returned to their parents. These children can be afforded the best possible opportunity to get on with the task of growing up by placing them in the most permanent plan and secure alternative that can be afforded them.” [Citation.]” (*In re Teneka W.* (1995) 37 Cal.App.4th 721, 728.) ““Guardianship, while a more stable placement than foster care, is not irrevocable and thus falls short of the secure and permanent future the Legislature had in mind for the dependent child.” [Citation.]” (*In re Celine R.* (2003) 31 Cal.4th 45, 53.)

As discussed, Esperanza and Jasmin are very young children with special needs that demand a stable and permanent home, and their prospective adoptive parent has demonstrated that she is a caretaker capable of meeting those needs. While the evidence before the juvenile court demonstrated that Mother and Father had a warm and loving relationship with the children, it did not establish the kind of parental relationship that section 366.26, subdivision (c)(1)(B)(i) was designed to preserve. (See *In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350 [“[A] child should not be deprived of an adoptive parent when the natural parent has maintained a relationship that may be beneficial to some

degree but does not meet the child's need for a parent. It would make no sense to forgo adoption in order to preserve parental rights in the absence of a real parental relationship."].) Substantial evidence supported the juvenile court's finding that the section 366.26, subdivision (c)(1)(B)(i) exception did not apply.

II. The Sibling Relationship

Section 366.26, subdivision (c)(1)(B)(v) sets forth an exception to the termination of parental rights where the juvenile court "finds a compelling reason for determining that termination would be detrimental to the child" because "[t]here would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption."

The juvenile court undertakes a two-step analysis in evaluating the applicability of the section 366.26, subdivision (c)(1)(B)(v) exception. First, the court is directed "to determine whether terminating parental rights would substantially interfere with the sibling relationship by evaluating the nature and extent of the relationship, including whether the child and sibling were raised in the same house, shared significant common experiences or have existing close and strong bonds. [Citation.] If the court determines terminating parental rights would substantially interfere with the sibling relationship, the court is then directed to weigh the child's best interest in continuing that sibling relationship against the benefit the child would receive by the permanency of adoption. [Citation.]" (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 951-952.) A parent asserting the exception bears the burden of demonstrating the existence of a significant sibling bond, and showing that its severance would be detrimental to the child for whom a permanent plan of adoption is being considered. (*Id.* at p. 952.) "[T]he concern is the best interests of the child being considered for adoption, not the interests of that child's siblings." (*In re Naomi P.* (2005) 132 Cal.App.4th 808, 822.)

“Reflecting the Legislature’s preference for adoption when possible, the ‘sibling relationship exception contains strong language creating a heavy burden for the party opposing adoption. It only applies when the juvenile court determines that there is a “compelling reason” for concluding that the termination of parental rights would be “detrimental” to the child due to “substantial interference” with a sibling relationship.’ [Citation.] Indeed, even if adoption would interfere with a strong sibling relationship, the court must nevertheless weigh the benefit to the child of continuing the sibling relationship against the benefit the child would receive by gaining a permanent home through adoption. [Citation.]” (*In re Celine R.*, *supra*, 31 Cal.4th at p. 61.) The juvenile court’s finding on the applicability of the sibling relationship exception is reviewed for substantial evidence. (*In re L.Y.L.*, *supra*, 101 Cal.App.4th at p. 947.)

The evidence at the section 366.26 hearing supported a finding that Esperanza and Jasmin had a strong sibling relationship with Priscilla and Jose despite their limited time living together. Esperanza and Jasmin were first separated from their older siblings in June 2005 when Esperanza was 16 months old and Jasmin was six months old. Although the siblings spent a substantial portion of their lives in separate placements, they maintained regular visitation during the dependency proceedings. Esperanza and Jasmin were always happy to see their siblings at the family’s weekly visits, and as the older siblings, Priscilla and Jose were protective of Esperanza and Jasmin and attentive to their needs. The siblings had positive interactions throughout their visitation and played well together. The Department does not dispute that the children shared a significant sibling bond.

On the other hand, the evidence presented at the hearing did not support that terminating parental rights would substantially interfere with Esperanza and Jasmine’s relationship with their siblings. To show a substantial interference with the sibling relationship, Mother and Father had to establish not only that a significant sibling bond existed between the children, but also that Esperanza and Jasmin would suffer detriment if the bond were severed. (*In re L.Y.L.*, *supra*, 101 Cal.App.4th at p. 952.) However, the children’s prospective adoptive parent, Mrs. B., told the Department and testified in court

that she was willing to permit visitation between the siblings to continue. Mrs. B. intended to allow sibling visits on special occasions, such as birthdays and holidays, but was also open to the idea of monthly visits upon consultation with the children's therapist. Moreover, even if parental rights had been preserved, there was no realistic expectation that the siblings would ever again reside in the same home. (See *In re Jacob S.* (2002) 104 Cal.App.4th 1011, 1017, disapproved on other grounds in *In re S.B.* (2009) 46 Cal.4th 529, 537, fn. 5. [sibling relationship exception did not apply where there was "no realistic expectation that within a reasonable time these siblings could live together under the same roof"].) Although the adoption of Esperanza and Jasmin would necessarily effect a legal change in the sibling relationship, no evidence showed that the emotional bond between the children would be severed.

Finally, even if we were to assume that the termination of parental rights would substantially interfere with the sibling bond, there remained ample evidence to support a finding that the benefits of adoption outweighed the benefits of continuing the sibling relationship. When the section 366.26 hearing was held in July 2009, Esperanza and Jasmin were still young children. By that point, they had faced several years of uncertainty while family reunification was attempted, but repeatedly failed. Both Esperanza and Jasmin also suffered from a panoply of emotional and developmental problems, and as a result, they had numerous special needs that required a secure and permanent placement. While it is indisputable that the children's relationships with their siblings were important to them, the stability and permanency of their prospective adoptive home had proven to be more beneficial to their well-being. The children had adjusted well in the home of Mrs. B. and were bonded to her, and Mrs. B. was able to attend to their unique emotional and developmental needs. Failing to terminate parental rights would have deprived Esperanza and Jasmin of a stable and permanent home, which Mother and Father never had been able to provide.

Under these circumstances, substantial evidence supported the juvenile court's finding that any benefit from continued contact with the children's siblings was outweighed by the benefits of a secure adoptive home. Accordingly, the juvenile court

properly concluded that the section 366.26, subdivision (c)(1)(B)(v) exception did not apply and that parental rights over Esperanza and Jasmin should be terminated.⁵

DISPOSITION

The order of the juvenile court terminating parental rights is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

JACKSON, J.

⁵

In light of our conclusion that the juvenile court did not err in terminating the parental rights of both Mother and Father, we need not address Mother's argument that her parental rights may not be terminated if Father's parental rights are reinstated on appeal.